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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,609	06/23/2003	Paolo Sartor	1. L397. 214	8793

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BUGNION S.A.
CASE POSTALE 375
ROUTE DE FLORISSANT 10
GENEVA 12, CH-1211
SWITZERLAND

EXAMINER

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,609

Applicant(s)

SARTOR ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06/23/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Specification

Applicants have incorporated foreign documents "EP 1 066 767" and "WO 96/03186" by reference into the written specification. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

Claim Objections

Claims 6, 8 and 12 are objected to because of the following informalities:

In claim 6, bridging lines 3 and 4, recitation of "that make it possible " should be deleted for clarity.

In claim 8, line 4, the phrase "the articulation pin" should be changed to read as
- - an articulation pin - - in order to establish proper antecedent basis.

In claim 12, line 2, the phrase "the lever of a tightening device" should be changed to read as - - a lever of a tightening device - - in order to establish proper antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as to the following:

In claim 1, line 8, the term "it" is indefinite, per se, for not being definitive of any particular claimed structure.

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In claim 5, line 5, there is no antecedent basis for "the buckle".

In claim 10, lines 3 and 4, each occurrence of the term "it" is indefinite, per se, for not being definitive of any particular claimed structure.

In claim 12, line 3, the term "it" is indefinite, per se, for not being definitive of any particular claimed structure.

In claim 12, recitation of "when the lever of a tightening device for opening the boot is manipulated, means make it possible to bring the lever (3) into its stable position allowing the sliding of the lace (2) in both directions" renders the claim indefinite since it is not certain whether the subject matter of [the] tightening device is required in the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hart (U. S. Patent No. 1,481,903). Hart ('903) discloses a brake device (10) for a lace, of a boot, sliding in a base part (casing 22) linked to the boot, comprising a lever (26) articulated on the base part, returned by an elastic means (spring 27) into a position (shown in Fig. 5) of contact with the lace preventing the sliding of the lace in one direction by pressing, wherein the lever has holding means (grooves 30, 31) enabling it to maintain a second, stable position (shown in Fig. 4) allowing the sliding of the lace in both directions;

(concerning claim 7) the elastic means for returning the lever into its position of contact with the lace is a compression spring (27); and

(concerning claim 12, so far as definite), means (the cooperation between groove 31 and spring 33 to obtain position shown in Fig. 4) make it possible to bring the lever into its stable position allowing the sliding of the lace in both directions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hart ('903) in view of Rio (U. S. Patent No. 2,200,895). Hart ('903) discloses the claimed device except for wherein the part of the lever for coming into contact with the lace has teeth that make it possible increase the coefficient of friction between the lever and the lace. Rio ('895) shows an analogous lace device having teeth (18) engaging the lace. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the lever of Hart ('903) to included teeth, as taught by Rio ('895) since Rio ('895) states in column 2, lines 40-45, that the teeth "prevent slipping and loosening or the shoe string".

Allowable Subject Matter

Claims 4-5 and 8-11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bongiovannie (U. S. Patent No. 1,696,790), Okrainetz et al. (U.S. Patent No. 1,703,689), Muldowney et al. (U. S. Patent No. 6,327,750), and Miler (U. S. Patent No. 2,470,316) each show lace fastening structure..

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ROBERT J. SANDY
PRIMARY EXAMINER

Robert J. Sandy
Primary Examiner
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